IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 8TH OCTOBER 2007 / 16TH ASWINA 1929

WP(C).No. 12205 of 2007(C)

PETITIONERS:

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1. K.C.RAJAN, S/O LATE CHAKKAPPAN,
   AGED 69, BUILDING NO.1/124,
   MANALUR GRAMA PANCHAYAT MANDUR P.O,
   PALAZHI, TRICHUR DIST.

2. K.C.PARAN, S/O LATE CHAKKAPPAN,
   AGED 80, BUILDING 1/126,
   MANALUR GRAMA PANCHAYAT MANDUR P.O.,
   PALAZHI, TRICHUR DIST.

3. MRS. LEENA ANIL, W/O ANILKUMAR K.P.,
   KOONATH HOUSE, MANALUR P.O., PALAZHI.

BY ADV. SRI.S.SREEKUMAR

RESPONDENTS:

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1. THE SECRETARY,
   MANALUR GRAMA PANCHAYAT, MANALUR P.O.

2. THE SENIOR ENVIRONMENTAL ENGINEER,
   POLLUTION CONTROL BOARD,
   TRISSUR.

3. RAJEEV, S/O NAKULAN,
   POTTEKATTU HOUSE, MANALUR GRAMA PANCHAYAT,
   MANALUR P.O.

R2 BY ADV. SMT.K.K.THULASY BHAI, SC
R3 BY ADV.SRI.G.SREEKUMAR (CHELUR)
R1 BY ADV.SRI.SHINU J.PILLAI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.12205/07

APPENDIX

PETITIONERS' EXTS:

EXT.P1 – TRUE COPY OF REPRESENTATION DT.6.3.07 TO R1.

3RD RESPONDENTS' EXTS:

EXT.R3(A) – TRUE COPY OF COMMUNICATION BY PANCHAYAT TO R3 DT.20.8.07.

EXT.R3(B) – TRUE COPY OF RECEIPT ISSUED BY PANCHAYAT DT.13.11.06.

EXT.R3(C) – TRUE COPY OF SKETCH CONCERNING THE SITE PREPARED BY PETR. DATED NIL.

1ST RESPONDENT'S EXTS:-

EXT.R1(A) – COPY OF APPLICATION SUBMITTED BY R3 FOR STARTING FLOUR AND OIL MILL.

EXT.R1(B) – TRUE COPY OF CONSENT DT.30.6.06 SUBMITTED BY R3 BEFORE R1.

EXT.R1(C) – TRUE COPY OF LOCATION SKETCH SUBMITTED BY R3.

EXT.PR1(D) – COPY OF RESOLUTION NO.319/06 DT.16.10.06 OF THE PANCHAYAT.

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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W.P.(C)No.12205 OF 2007

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DATED THIS THE 8TH OCTOBER, 2007

J U D G M E N T

The grievance of the petitioners is that the 3rd respondent is conducting a flour mill without obtaining licence from the 1st respondent-Panchayat and consent from the 2nd respondent-Pollution Control Board.

2. The 3rd respondent has filed a counter affidavit in which it is stated that the allegations of the petitioners are ill-founded and that the Writ Petition is a sequel of business rivalry.

3. I do not propose to go into the merits of the matter. It cannot be disputed that without a licence from the local authority, which is to be issued by the local authority on the basis of consent to operate to be issued by the 2nd respondent, the 3rd respondent will not be justified in operating his flour mill.

4. Having regard to the submissions addressed at the Bar by Mr.S.Sreekumar, counsel for the petitioners, Mr.G.Sreekumar Chelur, counsel for the party-respondent, Mr.Shinu J.Pillai, counsel for Panchayat and Smt.K.K.Tulasi Bhai, Standing Counsel for the Pollution Control Board, I am of the view that the Writ Petition itself can be disposed of issuing the following directions:-

The 2nd respondent is directed to conduct an inspection of the 3rd respondent's premises with notice to at least one of the petitioners and the 3rd respondent and also to the 1st respondent-Secretary of the Panchayat. The inspection shall be with reference to the allegations in the Writ Petition regarding the pollution which the 3rd respondent's unit is likely to generate and also in the context of the control measures arranged by the 3rd respondent in his premises. The report prepared by the 2nd respondent on the basis of the above inspection will be given to the 1st respondent. The 1st respondent thereupon will take up the 3rd respondent's application for licence, hear the 3rd respondent and also the 1st petitioner and take a final decision on the issue whether licence should be issued to the 3rd respondent. Further operation of the flour mill by the 3rd respondent shall be only after the Pollution Control Board has issued consent to operate or has submitted a report favourable to the 3rd respondent. Needful in compliance with the above directions shall be done by the concerned respondents at the earliest and at any rate the Panchayat shall take a final decision on the application for issue of licence within six weeks from today.

The Writ Petition is disposed of as above.

tgl **(PIUS C.KURIAKOSE, JUDGE)**